



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JUL 26 2019

Timothy McGowan

Davis, WV 26260

RE: MUR 7544

Dear Mr. McGowan:

The Federal Election Commission reviewed the allegations in your complaint received on November 16, 2018. On July 19, 2019, based upon the information provided in the complaint, and information provided by the respondents, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations as to WBOY-TV, LLC and Nexstar Broadcasting, Inc., and close its file in this matter. Accordingly, the Commission closed its file in this matter on July 19, 2019. A copy of the General Counsel's Report, which more fully explains the basis for the Commission's decision, is enclosed.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009).

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 52 U.S.C. § 30109(a)(8).

Sincerely,

Lisa J. Stevenson
Acting General Counsel

BY: Jeff S. Jordan
Assistant General Counsel

Enclosure
General Counsel's Report

1600474740001

BEFORE THE FEDERAL ELECTION COMMISSION

ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

MUR: 7544

Respondents: WBOY-TV, LLC,
Nexstar Broadcasting, Inc.¹

Complaint Receipt Date: November 16, 2018

Response Date: December 5, 2018

EPS Rating:

Alleged Statutory

52 U.S.C. § 30101(9)(B)(i)

Regulatory Violations:

11 C.F.R. § 100.73

The Complaint alleges that, on October 20, 2018, WBOY-TV broadcast a thirty-two minute political rally featuring Vice President Michael Pence and supporting U.S. Senate candidate Patrick Morrisey.² Respondents acknowledge that WBOY-TV broadcast the October 20, 2018, rally and assert that it was a *bona fide* newscast of an event covered by numerous other news outlets.³

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating and the

¹ Nexstar Broadcasting, Inc. operates WBOY-TV. See FCC TV Station Profile for WBOY-TV, available at <https://publicfiles.fcc.gov/tv-profile/wboy-tv> (last visited May 16, 2019); Resp. at 1 (Dec. 5, 2018).

² Compl. at 1 (Nov. 16, 2018).

³ Resp. at 1. Although we were unable to locate a version of the broadcast, there is no information in the record to suggest that the program was paid content, as opposed to *bona fide* news coverage. See 11 C.F.R. § 100.73.

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